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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,229	11/06/2001	Chisato Hirata	ACE-1001	5572

7590

10/08/2003

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 10/08/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,229

Applicant(s)

HIRATA, CHISATO

Examiner

Tri M. Mai

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____ .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

1. Claims 13, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by either Ota et al. (5407086). or Vaillencourt (5337909). Ota teaches the container being made from PET (col. 1, line 49), a cap (col. 4, line 9). Portion 4 is the ornamental portion such that it does not exceed an external circumference of the base portion, and the base portion is provided with pressure-responsive panels 12. Regarding claim 14, it is submitted that there are two bumper portions (one is just above portion 2, and the other one is at the base portion) would prevent the ornamental portion from damage.

Vaillencourt teaches the container being made from PET, and portion 14 is the ornamental portion such that it does not exceed an external circumference of the base portion, and the base portion is provided with pressure-responsive panels 24. Regarding claim 14, it is submitted that there are two bumper portions 19 and 16 would prevent the ornamental portion from damage.

2. Claims 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Carew (6044996). Carew teaches the container being made from PET, and portion at 3 is the ornamental portion, and that it does not exceed an external circumference of the base portion, and the base portion is provided with pressure-responsive panels 12.

Regarding claim 14, it is submitted that there are two bumper portions (one is just above portion 7, and the other one is at 4) would prevent the ornamental portion from damage.

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Ota et al. or Vaillencourt in view of Carew et al. (6044996). Either Ota or Vaillencourt meets all claimed limitations except for the arcuate portion. Carew teaches that it is known in the art to provide

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arcuate portions 11 as shown in Figs. 2 and 5, respectively. It would have been obvious to one of ordinary skill in the art to provide arcuate portions in either Ota or Vaillencourt as taught by Carew to provide alternative pressure responsive panels.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Ota et al. or Vaillencourt, or Carew in view of Becker (D187435). Each of Ota, Vaillencourt, and Carew meets all claimed limitations except for the figurine shape. Becker teaches that it is known in the art to provide a figurine shape for a bottle. It would have been obvious to one of ordinary skill in the art to provide a figurine shape for a bottle in anyone of Ota, Vaillencourt, and Carew as taught by Becker to attract customer and/or to provide an alternative gripping portion.

Response to Arguments

5. Applicant's arguments filed 08/15/03 have been fully considered but they are not persuasive. Applicant mainly argues about the protection of the ornamental portion from damage during transportation. It is submitted that it is known in the art that the bumpers such as those used in either Ota or Carew are made specific for the purpose of protection, e.g., Krishnakumar et al (5279433) in col. 4, lines 18-21, "includes a bumper 46 of greater diameter of the label panel 36 in order to protect the attached label 50 during shipment."

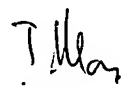
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai 
Primary Examiner
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